



UNITED STATES DEPARTMENT OF COMMERCE
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
06-748-591	06-14-85	KOHL	8610

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EXAMINER	
FAN-L	
ART UNIT	PAPER NUMBER
1-1	10-28-86 8
DATE MAILED:	

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☒ Responsive to communication filed on 9-10-86 ☒ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449 | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152 |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474 | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-27 are pending in the application.
Of the above, claims 20, 23 are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☒ Claims 1-19, 21-22, 24-27 are rejected.
5. ☐ Claims _____ are objected to.
6. ☐ Claims _____ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.
8. ☐ Allowable subject matter having been indicated, formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. These drawings are ☐ acceptable; ☐ not acceptable (see explanation).
10. ☐ The ☐ proposed drawing correction and/or the ☐ proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed _____, has been ☐ approved. ☐ disapproved (see explanation). However, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections **MUST** be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.
12. ☐ Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

Art Unit 121

Applicants' traversal of the restriction requirement has been carefully considered, but is deemed unpersuasive because the national U.S. patent practice is not governed by PCT rules.

Claims 1-19, 21, 22, 24, 25-27 are again rejected under 35 USC 103 as being unpatentable over patent 4555518 or 4560693 in view of 4255431 for reasons of record. Applicants' arguments have been carefully considered but are deemed unpersuasive for the following reasons:

1. Junggren et al pat 4255431 clearly teaches dialkoxy or trialkoxy substituted pyridyl ring. Note col. 2 lines 7, 8. It is noted that the disclosure of a patent is not limited to examples only.
2. Junggren et al enables one skilled in the art make the di or tri-alkoxy substituted pyridyl moiety in the claimed compounds. Note col. 3, lines 55-65.

Claims 1-19, 21-22, 24-27 are again rejected under the judicially created doctrine of obvious-type double patenting as being unpatentable over the prior invention as set forth in claim 5 of U.S. patent no. 4555518 or 4560693 in view of 4255431. Note the rationale in the preceding paragraph.

Claims 1-19, 21, 22, 24-27 are again rejected under the judicially created doctrine of obviousness-type

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double patenting as being unpatentable over the claims of co-pending application SN 794230 for reasons of record. The statement submitted by applicants is not sufficient to overcome the said rejection since there has been no showing that the subject matter of SN 794230 and the claimed invention were at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. Note Ex parte Yoshino and Takasu. 227 USPQ 52.

Claims 22-23 are again rejected under 35 USC 112, first and second paragraphs for reasons of record.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 CFR 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

JTFan:ce

A/C 703

557-1456

10-21-86

Jane T. Fan

JANE T. FAN
PRIMARY EXAMINER
ART UNIT 121